

REMARKS

Claims 1-53 are pending in this application with claims 1, 7-9, 13-15, 17, 18, 24-29, 32, 37, 38, 41, 42, and 47 being amended and claim 36 being cancelled by this response. Claims 1, 17, 32, and 42 have been amended to clarify that the evaluation result is derived from internally descrambled data and the descrambled data is not made directly accessible to the user. Claim 32 is also amended to include the feature recited in original claim 36 which is cancelled by this response. Claims 1, 7-9, 13, 14, 29, 37, 38, and 41 have been amended in accordance with the requests by the Examiner. Claim 15 has been amended to clarify the evaluation options are selected using the associated expert rules such that they do not allow any conclusion to be drawn from the evaluation result relating to individual sensitive data items without entering authorized access verification. Claims 18, 24-29 and 47 have been amended to correct typographical errors. Support for this amendment is provided throughout the specification and specifically on page 4, lines 12-32 and Page 6, lines 19-23. Thus, it is respectfully submitted that no new matter has been added by the amendments to the claims.

Objection to the Drawings

Figure 3 has been objected to for failing to show the names for the parts shown therein. Figure 3 has been amended to include the names for the parts as requested by the Examiner. Support for the amendments to the Figure 3 can be found in the corresponding detailed description of Figure 3 on page 11, line 29 to page 12, line 19 of the specification.

Figures 1 and 2 have been objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "5" has been used to designate evaluation module in both Figure 1 and Figure 2. Figure 2 has been amended to replace reference character "5" with new reference number "15". Additionally, the corresponding description of Figure 2 is also amended to replace the reference numeral "5" with "15" and conform the specification to the drawings. Support for the amendments to the Figure 2 can be found in the corresponding amended detailed description of Figure 2 on page 10, line 32 to page 11, line 27 of the specification.

Figures 1 and 2 have been objected to as failing to comply with 37 CFR 1.84(p)(5) because reference characters "11", "12", and "13" are not mentioned in the description. The specification has been amended to include reference characters "11", "12", and "13" in accordance with the request by the Examiner.

Please replace Figures 1-3 with the Amended Figures 1-3 on the attached sheets. Figures 1-3 have been amended to include legends as requested by the Examiner. It is respectfully submitted that no new matter is added by these amendments. In view of the above remarks and amendments to Figures 1-3 and Specification it is respectfully requested that this objection be withdrawn.

Objection to the Abstract

The abstract has been objected to for containing more than 150 words. The abstract has been amended in accordance with comments of the Examiner. Please replace Abstract with the Amended Abstract on the attached sheets.

Objection to the Title

The title has been objected to for failing to clearly indicate the invention to which the claims are directed. The title has been amended in accordance with the comments of the Examiner.

Objection to the Specification

The specification has been objected to for certain informalities identified on page 2 of the Rejection. The specification has been amended in accordance with the suggestions of the Examiner.

It is respectfully submitted that no new matter is added by these amendments. In view of the above remarks and amendments to the specification it is respectfully requested that this objection be withdrawn.

Objection to Claims 1, 8, 9, 13, 14, 17, 29, 32, 37, 38, 41 and 42

Claims 1, 8, 9, 13, 14, 17, 29, 32, 37, 38, 41 and 42 are objected to for certain informalities.

Claims 8, 9, 13, 14, 29, 37, 38 and 41 have been amended in accordance with the comments of the Examiner.

Claims 1, 17, 32, and 42 have been objected to for using terms “inhibitable” and “enableable” in the claims. The claims have been amended to remove these terms and consequently this objection is deemed satisfied and its withdrawal is respectfully requested.

It is respectfully submitted that no new matter is added by these amendments. In view of the above remarks and amendments to the claims, withdrawal of this objection is respectfully requested.

Rejection of Claims 1-16, 24-41 and 47 under 35 U.S.C. § 112, second paragraph

Claims 1-16, 24-41 and 47 are rejected to for failing to particularly point out and distinctly claim the subject matter.

Claims 1 and 32 are formally amended to clarify that the descramble data is not directly accessible by the user.

Claim 7 is formally amended to clarify that the at least one of inhibiting and enabling of the at least one predetermined evaluation option in the evaluation module is permitted only after the authorized person has entered a predetermined user identification.

Claim 15 is formally amended to clarify that the evaluation options are selected using the associated expert rules such that they do not allow any conclusion to be drawn from the result of the evaluation that relates to individual sensitive data items without entering an authorized access verification. Thus, the present claimed invention protects access to the reading of the evaluation results so that only users who are authorized for access can carry out the system functions.

Claims 24-29 and 47 are formally amended to correct typographical errors.

It is respectfully submitted that no new matter is added by the formal amendments to the claims. In view of the above remarks and amendments to the claims, withdrawal of this rejection is respectfully requested.

Rejection of Claims 1-53 under 35 U.S.C. § 101

Claims 1-53 have been rejected because the claimed invention is directed to non-statutory subject matter. Specifically, claims 1-53 have been rejected for no practical application claimed using the result. However, the present claimed invention is directed to a

method and a system to “make confidential patient data available for diagnosis or therapy decisions, without the confidential data itself needing to be disclosed” (Page 5, lines 9-10). Accordingly, the present claimed invention provides the user “with the capability to select from evaluation options which are enabled in the evaluation module. After selection of an appropriate evaluation option, for example a question relating to a contraindication, the evaluation module descrambles the necessary scrambled data internally using the possibly reconstructed key, which is available within the evaluation module. It then evaluates the descrambled data in accordance with the expert rules associated with the evaluation option. The evaluation result is then output to the user, for example in the form of an answer to the selected question” (Page 4, lines 22-29). Therefore, “the user is never provided with direct access to the descrambled individual data items” (Page 4, lines 31-32). Thus, contrary to the assertions of the Examiner, the present claimed invention is directed to a method and a system with practical application as recited in the claims. Specifically, a useful and tangible result of the evaluation is the evaluation result (NOT the descrambled individual data items but the result of evaluating these items) “output” by the “evaluation module”.

Furthermore, the Rejection contends that claims 17-29, 42 and 43 recite a system of software per se and software is not one of the statutory categories. However, the present claim invention provides a system for evaluating sensitive data at an evaluation module implemented in **hardware** or software that descrambles scrambled data. Specifically, as stated in paragraph 42 of the present specification, the evaluation module may be implemented as a hardware element, for example, a smart card that includes the operation instructions coded thereon. Accordingly, the present claimed invention provides the user “with the capability to select from evaluation options which are enabled in the evaluation module. After selection of an appropriate evaluation option, for example a question relating to a contraindication, the evaluation module descrambles the necessary scrambled data internally using the possibly reconstructed key, which is available within the evaluation module. It then evaluates the descrambled data in accordance with the expert rules associated with the evaluation option. The evaluation result is then output to the user, for example in the form of an answer to the selected question” (Page 4, lines 22-29). Therefore, the evaluating module may be implemented as hardware which is statutory subject matter under 35 USC 101.

In view of the above remarks and amendments to the claims, withdrawal of this rejection is respectfully requested.

Rejection of Claims 4, 16, 35, 40, and 41 under 35 U.S.C. § 112, first paragraph

Claims 4, 16, 35, 40, and 41 are rejected for failing to comply with the written description requirement.

Claim 16 has been rejected for failing to provide support from specification for the feature “wherein the authorized person is provided with a means for descrambling the scrambled data”. However, the present claimed invention clearly describes “the associated system includes the evaluation module with an input and an output interface for the inputs by an authorized person or user, and the reading of data as well as the outputting of information about the enabled evaluation modules and the results of the respective evaluation. The evaluation module contains the means for descrambling the scrambled data as well as one or more predetermined evaluation options, which can be inhibited or enabled by an input by an authorized person. It also includes a device for internal descrambling of the scrambled data, for evaluation of the descrambled data in accordance with one or more expert rules, and for outputting the evaluation result via the output interface” (Page 3, lines 18-27). Thus, it is respectfully submitted that the “evaluation module” and the operation thereof described in the specification fully supports the claimed feature “wherein the authorized person is provided with a means for descrambling the scrambled data” as recited in claim 16 of present invention.

Claims 4, 35, 40, and 41 have been rejected for failing to provide support from the specification for the feature “wherein the sensitive data is scrambled immediately after its recording, so that it is not accessible in unscrambled form on a data storage medium”. However, the present claimed invention clearly describes “the sensitive data is scrambled immediately on being recorded or immediately after being recorded, so that it is never accessible on a data storage medium in unscrambled form. This refinement can be implemented in particular for automated recording or measurement of the data, for example for the recording of DNA sequence data” (Page 6, lines 1-5). The present claimed invention seeks to prevent a user from any direct access to the descrambled data as well as storing the data at any other location by a user (Page 5, line 7-8). Therefore, in one particularly secure refinement of the present claimed invention, the sensitive data is scrambled immediately on being recorded such as recording of DNA sequence data. And according to the present claimed invention, the descrambling of the scrambled stored data is performed internally and the user is never provided with direct access to the descrambled data (Page 4, lines 21-32). Thus, it is respectfully submitted that the specification fully supports the claimed feature “wherein the sensitive data is scrambled immediately after its recording, so that it is not accessible in unscrambled form on a data storage medium” as recited in claims 4, 35, 40, and 41 of present invention.

In view of the above remarks and amendments to the claims, the withdrawal of this rejection is respectfully requested.

Rejection of Claims 1-53 under 35 U.S.C. § 102(b)

Claims 1-53 are rejected under 35 U.S.C. 102(b) as being anticipated by NCR International Inc. (EP 0990972).

The present claimed invention recites a method and a system for evaluating sensitive data. An evaluation module is provided for descrambling scrambled and stored sensitive data. The evaluation module includes at least one predetermined evaluation option which at least one of (a) may be inhibited and (b) may be enabled by an authorized person. Expert rules, which are accessible by the evaluation module, are allocated for carrying out an evaluation process. An option is selected from evaluation options enabled in the evaluation module for a user. The scrambled data is internally descrambled and the descrambled data is evaluated in accordance with at least one expert rule associated with the selected evaluation option. An evaluation result derived from the internally descrambled data is output using the evaluation module without making the descrambled data directly accessible to the user. For the reasons presented below, Applicant respectfully submits that NCR International Inc. ("NCR") does not anticipate the present claimed invention because NCR neither discloses nor suggests each feature claimed therein.

The present claimed invention is concerned with "mak[ing] confidential patient data available for diagnosis or therapy decisions, without the confidential data itself needing to be disclosed" (Page 5, lines 9-10). Accordingly, the present claimed invention provides the user "with the capability to select from evaluation options which are enabled in the evaluation module. After selection of an appropriate evaluation option, for example a question relating to a contraindication, the evaluation module descrambles the necessary scrambled data internally using the possibly reconstructed key, which is available within the evaluation module. It then evaluates the descrambled data in accordance with the expert rules associated with the evaluation option. The evaluation result is then output to the user, for example in the form of an answer to the selected question" (Page 4, lines 22-29). Thus, "the user is never provided with direct access to the descrambled individual data items" (Page 4, lines 31-32).

Unlike the present claimed invention, "NCR" describes a database management system for storing and retrieving data from a plurality of database tables wherein the data in the database tables is controllably accessible according to privacy parameters stored in the database table. An interface is operatively coupled to the database management system and

controlling access to the data. An audit module is communicatively coupled to the interface for validating enforcement of the data privacy parameters in the database management system (See NCR, Abstract).

The Rejection asserts that NCR, in Figure 5, step 508 and [0017] and [0019] shows “outputting an evaluation result derived from said internally descrambled data via the output interface, without making the descrambled data directly accessible to the user” as recited in the present claimed invention. Applicant respectfully disagrees. Contrary to the assertion of the Rejection, NCR describes that “business applications 110 and third party applications 112 have access only to such data as permitted by the database view provided”. Furthermore, NCR describes “[a]ll accesses to data...is accomplished through dataviews” and “[d]ata within the extended database 106 can be viewed, processed, or altered only through the dataviews in this suite”. Thus, NCR is merely concerned with providing a data management system which allows a user to view and update data controllably accessible according to privacy parameters specified and associated with the dataview. Contrary to the claimed method, NCR provides a user with **direct access** to the data permitted by the system. This is wholly unlike the present claimed invention which provides a user with the desired evaluation result which is based on data that has been internally descrambled from a selected evaluation option without making the internally descrambled data “directly accessible to the user”. Thus, NCR neither discloses nor suggests “internally descrambling the scrambled data, evaluating the descrambled data in accordance with at least one expert rule associated with the selected evaluation option, and outputting an evaluation result derived from said internally descrambled data using the evaluation module, without making the descrambled data directly accessible to the user” as recited in the present claimed invention.

Furthermore, NCR describes a database management system for storing and retrieving data from a plurality of database tables wherein the data in the database tables is controllably accessible according to privacy parameters stored in the database table. Accordingly, protection of confidential data is achieved by assigning specific protection levels to specific set of data. Thus, a user has direct access only to the specific set of data in the database according to the privacy parameters associated with the user. This is fundamentally different from the present claimed invention. In the present claimed invention, the protection of confidential data is not achieved by assigning protection levels, as in NCR. Rather, all data is accessible but access is controlled by the “evaluation option” of the “evaluation module” which may be selectively “inhibited and enabled” by an “authorized person”. The implementation of the “evaluation option” using the “expert rules” controls the access to the data and “output[s] an evaluation result derived from said internally descrambled data”. The evaluation result is NOT the data itself and thus is not equivalent to the privacy parameter

controlled dataviews of NCR. All confidential data in the claimed system is available to an authorized user via the expert rules that are specific to the “authorized user” which are accessible by the “evaluation module” to output the “evaluation result”. The evaluation module provides user a desired output derived from all confidential data without making any of the data directly accessible to the user. Such is neither disclosed nor suggested by NCR.

Therefore, the claimed method advantageously never provides direct access to any confidential data items and ensures that direct access is never provided by allowing the authorized person to inhibit or enable certain evaluation options that are available for evaluating the data. The defined evaluation option yields a specific evaluation result that is relevant to the evaluation option and derived based on the particular item of data. Thus, the claimed method may output an evaluation result that is only necessary for the medical decision being made by the user and protects other data, not relevant to that decision from direct access by the user. This advantageously reduces the risk of disclosing confidential patient information that is not relevant to the medical query being made (Application, paragraphs [0017]-[0018]). NCR provides no 35 USC 112 compliant enabling disclosure of a method able to perform the activities claimed in amended claim 1. Therefore, it is respectfully submitted that claim 1 is not anticipated by NCR. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 2 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 3 is dependent on claims 1 and 2 and is considered patentable for the reasons presented above with respect to claims 1 and 2. Claim 3 is also considered patentable because NCR fails to disclose or suggest that “the algorithm produces the key as a function of at least one of an input and of a biometric feature of the authorized person” as in the present claimed system. The Examiner contends that NCR discloses the features of the present claimed invention and that in order to produce a key, there must be an input. However, paragraph [0058] of NCR cited in the Rejection merely describes encryption techniques that are used on an identified field. This is wholly unrelated to producing a key for descrambling data using “at least one of an input and of a biometric feature of the authorized person” as in the claimed arrangement. NCR merely discloses that certain fields and rows are encrypted and fails to discuss any mechanism for constructing a key for descrambling scrambled data as in the present claimed invention. Thus, it is respectfully submitted that NCR does not anticipate the present invention claimed in claim 3. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 4 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Claim 4 is also considered patentable because, unlike NCR, the present claimed invention describes that the sensitive data is scrambled immediately after its recording, so that it is not accessible in unscrambled form on a data storage medium. The Examiner contends that NCR, in paragraph [0057] discloses the features of the present claimed invention. However, NCR merely describes the use of data encryption. The present claimed invention provides that the sensitive data is scrambled immediately on being recorded such as recording of DNA sequence data. Moreover, according to the present claimed invention, the descrambling of the scrambled stored data is performed internally and the user is never provided with direct access to the descrambled data (Page 4, lines 21-32). Thus, NCR does not disclose that "the sensitive data is scrambled immediately after its recording, so that it is not accessible in unscrambled form on a data storage medium" as recited in the present claimed invention. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claims 5 and 6 are dependent on claim 1 and are considered patentable for the reasons presented above with respect to claim 1. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 7 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Claim 7 is also considered patentable because NCR fails to disclose or suggest "at least one of inhibiting and enabling of the at least one predetermined evaluation option in the evaluation module is permitted only after the authorized person has entered a predetermined user identification" as in the present claimed invention. The Examiner contends that NCR discloses the features of the present claimed invention. However, NCR merely describes providing access to the database after verifying identity. This is wholly unlike the present claimed invention which provides protection not only to the data, but also to the type of expert evaluation rules which can be applied to the data. Accordingly, only an authorized user is able to enable or inhibit the use of implemented expert rules (Page 6, lines 7-28). The application of these rules to the descrambled data provides the "evaluation result derived from the descrambled data" for output to a user. NCR is not concerned with inhibiting or enabling evaluation options as in the claimed arrangement. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 8 is dependent on claims 1 and 7 and is considered patentable for the reasons presented above with respect to claims 1 and 7. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claims 9 - 14 are dependent on claim 1 and are considered patentable for the reasons presented above with respect to claim 1. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 15 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Claim 15 is also considered patentable because NCR fails to provide any 35 USC 112 compliant enabling disclosure that “the evaluation options are selected using the associated expert rules such that they do not allow any conclusion to be drawn from the evaluation result relating to individual sensitive data items without entering authorized access verification” as in the claimed arrangement. As discussed above, NCR actually provides direct access to data based on a set of privacy parameters and does not output an “evaluation result derived from said descrambled data” which is only accessible by a user upon “entering authorized access verification information” as in the claimed system. Contrary to the claimed invention, the user in NCR enters information and has complete and total access to the data items based on the information entered. The claimed arrangement **prevents direct access** to information and, instead, advantageously outputs information derived based on the descrambled data but NOT the data itself. This evaluation is able to be used by a user for medical diagnosis purposes, for example. NCR is unable to operate in a equivalent manner as compared to the present claimed system and thus does not anticipate the invention claimed in claim 15. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 16 is dependent on claim 1 and is considered patentable for the reasons presented above with respect to claim 1. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Independent claim 17 is considered patentable for the reasons presented above with respect to independent claim 1. Therefore, it is respectfully submitted that similarly to claim 1, NCR fails to provide any 35 USC 112 compliant enabling disclosure of each feature claimed in claim 17. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 18 is dependent on claim 17 and is considered patentable for the reasons presented above with respect to claims 1 and 17. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 19 is dependent on claims 1 and 17 and is considered patentable for the reasons presented above with respect to claims 1 and 17. Claim 19 is also considered patentable because NCR fails to disclose or suggest that “the algorithm produces the key as a function of at least one of an input and of a biometric feature of the authorized person” as in the present claimed system. The Examiner contends that NCR discloses the features of the present claimed invention and that in order to produce a key, there must be an input. However, paragraph [0058] of NCR cited in the Rejection merely describes encryption techniques that are used on any identifying field of a database and which are applicable to the rows of the database. Thus, NCR allows customers whose data are stored in the database to remain anonymous but could allow for positive identification of those fields by a user having the data encryption rights. This is wholly unrelated to producing a key for descrambling data using “at least one of an input and of a biometric feature of the authorized person” as in the claimed arrangement. NCR merely discloses that certain fields and rows are encrypted and fails to discuss any mechanism for constructing a key for descrambling scrambled data as in the present claimed invention. Thus, it is respectfully submitted that NCR does not anticipate the present invention claimed in claim 19. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claims 20 and 21 are dependent on claim 17 and are considered patentable for the reasons presented above with respect to claims 1 and 17. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 22 is dependent on claim 17 and is considered patentable for the reasons presented above with respect to claims 1, 7 and 17. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 23 is dependent on claims 17 and 22 and is considered patentable for the reasons presented above with respect to claims 1, 17 and 22. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claims 24 – 29 are dependent on claim 17 and are considered patentable for the reasons presented above with respect to claims 1 and 17. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 30 is dependent on claims 1 and 2 and is considered patentable for the reasons presented above with respect to claims 1 and 2. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 31 is dependent on claims 1 and 3 and is considered patentable for the reasons presented above with respect to claim 1, 3 and 4. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Independent claim 32 is considered patentable for the reasons presented above with respect to independent claim 1 and claim 7. Therefore, it is respectfully submitted that similarly to claim 1 and 7, NCR fails to provide any 35 USC 112 compliant enabling disclosure of each feature claimed in claim 32. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 33 is dependent on claims 32 and is considered patentable for the reasons presented above with respect to claims 1 and 32. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 34 is dependent on claims 32 and 33 and is considered patentable for the reasons presented above with respect to claims 1 and 3. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 35 is dependent on claim 32 and is considered patentable for the reasons presented above with respect to claims 1, 4 and 32. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 36 is cancelled by this response.

Claim 37 is dependent on claims 32 and 36 and is considered patentable for the reasons presented above with respect to claims 1, 7, 32 and 36. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claims 38 – 41 are dependent on claim 32 and are considered patentable for the reasons presented above with respect to claims 1 and 32. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Independent claim 42 is considered patentable for the reasons presented above with respect to independent claim 1. Therefore, it is respectfully submitted that similarly to claim

1, NCR fails to provide any 35 USC 112 compliant enabling disclosure of each feature claimed in claim 42. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 43 is dependent on claim 42 and is considered patentable for the reasons presented above with respect to claims 1 and 42. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 44 is dependent on claims 42 and 43 and is considered patentable for the reasons presented above with respect to claims 1 and 3. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claims 45 and 46 are dependent on claim 42 and are considered patentable for the reasons presented above with respect to claims 1 and 42. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 47 is dependent on claim 42 and is considered patentable for the reasons presented above with respect to claims 1, 7 and 42. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claim 48 is dependent on claims 42 and 47 and is considered patentable for the reasons presented above with respect to claims 1, 7, 42 and 47. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

Claims 49 – 53 are dependent on claim 42 and are considered patentable for the reasons presented above with respect to claims 1 and 42. Consequently, it is respectfully requested that the rejection under 35 USC 102(b) be withdrawn.

In view of the above remarks and amendments to the claims, it is respectfully submitted that there is no 35 USC 112 enabling disclosure in NCR which would anticipate the present invention as claimed in claims 1, 17, 32, and 42. As claims 2-16, 18-31, 33-41, and 43-53 are dependent on claims 1, 17, 32, and 42, respectively, it is respectfully submitted that these claims are also not anticipated by NCR. It is thus, further respectfully submitted that this rejection is satisfied and should be withdrawn.

Rejection of Claims 1-53 under 35 U.S.C. § 103(a)

Claims 11-14, 26-29, 39-41, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over NCR International Inc. (EP 0990972) in view of Official Notice.

Claims 11 – 14 are dependent on independent claim 1 and are considered patentable for the reasons presented above with respect to claim 1. Claims 11 – 14 are also considered patentable because the Official Notice cited on page 13 of the Rejection, when taken alone or in combination with NCR, fails to provide any 35 USC 112 compliant enabling disclosure of the present claimed invention.

As discussed above, NCR is merely concerned with providing a data management system which allows a user to view and update data controllably accessible according to privacy parameters. Specifically, NCR provides a user with **direct access** to the data permitted by the system. This is wholly unlike the present claimed invention which provides a user with the desired evaluation result derived from descrambled data. A user-specific and authorized evaluation option is selected and implemented on the descrambled data to produce and output an evaluation result without making the internally descrambled data accessible to the user. NCR (with the Official Notice) neither discloses nor suggests this feature. In fact, NCR teaches operation in direct contrast to the operation of the claimed system. The data stored in the NCR system is entirely and directly accessible by a user based on privacy parameters of the user. Therefore, unlike the claimed system which advantageously output a result based on the data determined in response to the selected evaluation option, NCR provides access directly to the data so long as the user has permissions.

Applicant respectfully submits that there is no motivation to modify NCR (with the Official Notice) to include the claimed feature because NCR is merely a data warehouse system that stores large quantities of data and governs access to the data using a dataview application. NCR provides no common problem recognition with the claimed system which makes confidential patient data available for diagnosis or therapy decisions, without the confidential data itself needing to be disclosed. Rather, the claimed system outputs an “evaluation result derived from said descrambled data”. NCR alone or in combination with the Official Notice fail to provide any motivation to include or modify the systems described thereby with the advantageous feature of the present claimed invention. Furthermore, if one were to combine the NCR system with the Official Notice taken in the Rejection, the result would still not produce the present claimed invention. Contrary to the assertion of the Office Action, the Official Notice, similarly to NCR, neither discloses nor suggests “internally descrambling the scrambled data, evaluating the descrambled data in accordance with at least one expert rule associated with the selected evaluation option, and outputting an evaluation result derived from said descrambled data using the evaluation module, without making the

descrambled data directly accessible to the user” as recited in the present claimed invention. Consequently, it is respectfully requested that the rejection under 35 USC 103(a) be withdrawn.

Furthermore, the Rejection takes Official Notice that it would be obvious to include storing the scrambled data and the evaluation module on a common or separate or portable data storage medium (Rejection page 13). In addition, the Rejection takes Official Notice that it would be obvious to include the evaluation options that are in the forms of questions (Rejection page 13). It is acceptable for official notice to be taken of a fact of “wide notoriety”, In re Howard, 394 F. 2d 869, 157 USPQ 615, 616 (CCPA 1968) e.g. a fact commonly known to laymen everywhere, 29 AM. Jur 2D Evidence S. 33 (1994) or of a fact that is capable of “instant and unquestionable demonstration”, In re Ahlert 424 F. 2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). However, official notice should not be taken of a fact normally subject to the possibility of rational disagreement among reasonable men, In re Eynde, 480 F. 2d 1364, 1370; 178 USPQ 470, 474 (CCPA 1973). It is respectfully submitted that the elements of which the Rejection takes Official Notice, in the context of claims 11 – 14, are neither features of “wide notoriety”, (In re Howard), nor capable of “instant and unquestionable demonstration” (In re Ahlert). On the contrary, these features are subject to the possibility of rational disagreement given the claim arrangements within which they reside. Consequently, Applicants take exception to instance of Official Notice used in the rejection. Further, Applicants request that a showing be made of evidence that these features were well known, in the context of claims 11 – 14 at the time the invention was made. Consequently withdrawal of the Rejection of claims 11 – 14 under 35 USC 103(a) is respectfully requested.

Claims 26 – 29, 39 – 41 and 51 – 53 are also considered patentable for the reasons presented above with respect to claims 11 – 14. Consequently, it is respectfully requested that the rejection under 35 USC 103(a) be withdrawn.

In view of the above remarks and amendments to the claims, it is respectfully submitted that there is no 35 USC 112 enabling disclosure in NCR or Official Notice, when taken alone or in combination, which would make the present claimed invention unpatentable. Thus, it is further respectfully submitted that this rejection is satisfied and should be withdrawn.

Having fully addressed the Examiner's rejections, it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicants' attorney at the phone number below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,
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